IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Bail Appl..No. 6275 of 2007()

CR.NO. 406/07 OF VADAKKUMCHERY POLICE STATION

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PETITIONERS/ACCUSED 1 TO 4

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1. SATHYAN C.K., S/O. KUNJAYAPPAN,
   CHIRAKOLI HOUSE, MULLAKKARA, AMMADAM,
   THRISSUR.

2. PARAMESWARAN C.K.,
   -DO-

3. HARIDASAN C.K.,
   -DO-

4. MOHANAN C.K.,
   -DO-

BY ADV. SRI.C.HARIKUMAR

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
THROUGH THE S.I. OF POLICE, KUNNAMKULAM POLICE
STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6275 of 2007

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Dated this the 18th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations in a crime registered, inter alia, under Section 498A I.P.C. The petitioners are the husband and relatives of the husband of the defacto complainant. The marriage took place in 1991. Two children have been born in the wedlock. The defacto complainant in a complaint filed by her before the Magistrate alleged that she was the victim of matrimonial cruelty of the culpable variety at the hands of the petitioners herein. That complaint has been referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations are totally false. There is strain in the marital tie and on account of such strain, fanciful, false and exaggerated allegations are being made against the petitioners. A reading of the complaint must itself arouse suspicion in the mind of a prudent person. The

petitioners may be saved of the undeserved trauma of arrest and incarceration in prison, submits the learned counsel.

3. The learned Prosecutor does not oppose the application. I had in fact perused the records as the tenor of the allegations in the complaint did not inspire confidence. The wound certificate shows that an incident had taken place on 21.7.2007 in which she was belaboured by her husband and son Sanal, i.e. the son of the defacto complainant herself. In the complaint no allegation whatsoever was raised against him. The incident had taken place on 21.7.07, whereas the complaint lacks the fact that an incident had taken place on 21.7.2007. The totality of circumstances do not inspire confidence and I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners, subject to appropriate conditions. I may hasten to observe that I have not intended to express any final opinion on merits about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say, having considered the entire materials available, I am satisfied that the petitioners can be granted anticipatory bail, subject to appropriate conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 25.10.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 26.10.2007 and 27.10.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.10.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 25.10.2007 as directed in clause (1) above, they shall be released on bail on

their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 25.10.2007.

(R. BASANT)
Judge

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